

SENATE BILL 2068
By Jordan

AN ACT to amend Tennessee Code Annotated, Title 45, Chapters 1 and 2; relative to banking, and Chapter 130 of the Public Acts of 1993.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 45, Chapter 2, Part 14, is amended by adding the following sections to be appropriately designated:

Section _____. Powers.

(a) An out-of-state state bank which establishes and maintains one or more branches in Tennessee under this Part may conduct any activities at such branch or branches that are authorized under the laws of this state for Tennessee state banks.

(b) Notwithstanding any other state law to the contrary and in addition to any other activities a state bank may conduct, a Tennessee state bank may conduct any activities at any branch outside Tennessee that are permissible for a bank chartered by the host state where the branch is located subject to regulation by the commissioner for the purpose of maintaining the state bank's safety and soundness.

Section _____. Examinations; periodic reports; cooperative agreements; assessment of fees.

(a) To the extent consistent with subsection (c), the commissioner may make such examinations of any branch established and maintained in this state pursuant to this part by an out-of-state state bank as the commissioner may deem necessary to determine whether the branch is being operated in compliance with the laws of this state and in accordance with safe and sound banking practices. The commissioner may also participate in examinations of out-of-state state banks that have branches located in Tennessee. The applicable provisions of Tennessee Code Annotated, Section 45-5-1602, shall apply to such examinations.

(b) The commissioner may prescribe requirements for periodic reports regarding any out-of-state bank that operates a branch in Tennessee pursuant to this Part. The required reports shall be provided by such bank or may be provided by the bank supervisory agency having primary responsibility for such bank.

(c) The commissioner may enter into cooperative, coordinating and information-sharing agreements with any other bank supervisory agencies or any organization affiliated with or representing one or more bank supervisory agencies with respect to the periodic examination or other supervision of any branch in Tennessee of an out-of-state state bank, or any branch of a Tennessee state bank in any host state, and the commissioner may accept such parties' reports of examination and reports of investigation in lieu of conducting his or her own examinations or investigations.

(d) The commissioner may enter into contracts with any bank supervisory agency that has concurrent jurisdiction over a Tennessee state bank or an out-of-state state bank operating a branch in this state pursuant to this part to engage the services of such agency's examiners at a reasonable rate of

compensation, or to provide the services of the commissioner's examiners to such agency at a reasonable rate of compensation to be paid by either the other bank supervisory agency or by the out-of-state state bank. Any such contract shall be deemed a sole source contract under Tennessee law.

(e) The commissioner may enter into joint examinations or joint enforcement actions with other bank supervisory agencies having concurrent jurisdiction over any branch in Tennessee of an out-of-state state bank or any branch of a Tennessee state bank in any host state; provided that the commissioner may at any time take such actions independently if the commissioner deems such actions to be necessary or appropriate to carry out his or her responsibilities under this Part or to ensure compliance with the laws of this state.

(f) Each out-of-state state bank that maintains one or more branches in this state may be assessed and, if assessed, shall pay supervisory and examination fees in accordance with the laws of this state and regulations of the commissioner. Such fees may be shared with other bank supervisory agencies or any organization affiliated with or representing one or more bank supervisory agencies in accordance with agreements between such parties and the commissioner.

(g) In order to encourage the effective coordination and implementation of home state laws and host state laws with respect to interstate branching, the commissioner shall have the authority and the discretion to determine the applicability of Tennessee laws, which are within the commissioner's regulatory authority as conferred by law, to the operation of branches in Tennessee by out-of-state state banks.

Section _____. Notice and Filing Requirements.

Any out-of-state bank that will be the resulting bank pursuant to an interstate merger transaction involving a Tennessee state bank shall notify the commissioner of the proposed merger not later than the date on which it files an application for an interstate merger transaction with the responsible federal bank supervisory agency, and shall submit a copy of that application to the commissioner and pay the filing fee, if any, required by the commissioner. Any Tennessee state bank which is a party to such interstate merger transaction shall comply with all applicable state and federal laws. Any out-of-state bank which shall be the resulting bank in such an interstate merger transaction shall provide satisfactory evidence to the commissioner of compliance with applicable requirements of Tennessee law.

Section _____. Notice of Subsequent Merger.

Each out-of-state state bank that has established and maintains a branch in this state pursuant to this Part, shall give at least thirty (30) days' prior written notice to the commissioner of any merger, consolidation, or other transaction that would cause a change of control with respect to such bank or any bank holding company that controls such bank, with the result that an application would be required to be filed pursuant to the federal Change In Bank Control Act of 1978, as amended, 12 U.S.C. § 1817(j) or the federal Bank Holding Company Act of 1956 as amended, 12 U.S.C. § 1841 et seq., or any successor statutes thereto. In the case of an emergency transaction, such out-of-state state bank shall provide such shorter notice as is consistent with applicable state or federal law. The home state supervisory agency of such bank may provide the prior written notice required.

Section _____. Enforcement.

If the commissioner determines that a branch maintained by an out-of-state state bank in this state is being operated in violation of any provision of the laws of this state, or that such branch is being operated in an unsafe and unsound manner, the

commissioner shall have the authority to take all such enforcement actions as he or she would be empowered to take if the branch were a Tennessee state bank; provided, that the commissioner shall promptly give notice to the home state supervisory agency of each enforcement action taken against an out-of-state state bank and, to the extent practicable, shall consult and cooperate with the home state supervisory agency in pursuing and resolving said enforcement action.

SECTION 2. Chapter 130 of the Public Acts of 1993 is amended by deleting Section 2 in its entirety.

SECTION 3. Tennessee Code Annotated, Section 45-2-1402, is amended by adding the following new subsection to be appropriately designated:

"Host State" means a state, other than the home state of a bank, in which the bank maintains or seeks to establish and maintain a branch.

SECTION 4. Tennessee Code Annotated, Section 45-1-118, is amended by adding the following new subsection to be appropriately designated:

The commissioner in his or her discretion may, by regulation, establish the criteria and circumstances by which a credit toward the annual banking fee may be given to a Tennessee state-chartered bank for the annual banking fee assessment, if any, assessed against an out-of-state branch of the Tennessee state-chartered bank by the host state banking supervisory agency.

SECTION 5. Severability

If any provision of this Part or the application of such provision is found by any court of competent jurisdiction in the United States to be invalid as to any bank, bank holding company, foreign bank, or other person or circumstances, or to be superseded by federal law, the remaining provisions hereof shall not be affected and shall continue to apply to any bank, bank holding company, foreign bank or other person or circumstance.

SECTION 6. For rulemaking, the execution of cooperative agreements, Section 2 and Section 3, this act shall take effect on becoming a law, the public welfare requiring it. For all other purposes , this act shall take effect on June 1, 1997, the public welfare requiring it.

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